

SECOND REGULAR SESSION

HOUSE BILL NO. 1763

91ST GENERAL ASSEMBLY

INTRODUCED BY REPRESENTATIVES CAMPBELL AND COPENHAVER (Co-sponsors).

Read 1st time January 31, 2002, and 1000 copies ordered printed.

TED WEDEL, Chief Clerk

3558L.011

AN ACT

To amend chapter 304, RSMo, by adding thereto one new section relating to regulation of mobile telephone use by operators of motor vehicles, with an effective date and penalty provisions.

Be it enacted by the General Assembly of the state of Missouri, as follows:

Section A. Chapter 304, RSMo, is amended by adding thereto one new section, to be known as section 304.145, to read as follows:

304.145. 1. As used in this section, the following terms shall mean:

- 2 (1) "Mobile telephone", the device used by subscribers and other users of wireless
3 telephone service to access such service;
- 4 (2) "Wireless telephone service", two-way realtime voice telecommunications
5 service that is interconnected to a public- switched telephone network and is provided by
6 a commercial mobile radio service, as such term is defined by 47 C.F.R. Section 20.3;
- 7 (3) "Using", holding a mobile telephone to, or in the immediate proximity of, the
8 user's ear;
- 9 (4) "Handheld mobile telephone", a mobile telephone with which a user engages
10 in a call using at least one hand;
- 11 (5) "Hands-free mobile telephone", a mobile telephone that has an internal feature
12 or function, or that is equipped with an attachment or addition, whether or not
13 permanently part of such mobile telephone, by which a user engages in a call without the
14 use of either hand, whether or not the use of either hand is necessary to activate, deactivate,
15 or initiate a function of such telephone;
- 16 (6) "Engage in a call", talking into or listening on a handheld mobile telephone, but
17 shall not include holding a mobile telephone to activate, deactivate, or initiate a function

18 of such telephone;

19 (7) "Immediate proximity", that distance as permits the operator of a mobile
20 telephone to hear telecommunications transmitted over such mobile telephone, but shall
21 not require physical contact with such operator's ear.

22 2. Except as provided in subsection 3 of this section, no person shall operate a
23 motor vehicle upon a public roadway while using a mobile telephone to engage in a call
24 while such vehicle is in motion. An operator of a motor vehicle who holds a mobile
25 telephone to, or in the immediate proximity of his or her ear while such vehicle is in motion
26 is presumed to be engaging in a call within the meaning of this section. The presumption
27 established by this subsection is rebuttable by evidence tending to show that the operator
28 was not engaged in a call. The provisions of this section shall not be construed as
29 authorizing the seizure or forfeiture of a mobile telephone, unless otherwise provided by
30 law.

31 3. The provisions of this section shall not apply to:

32 (1) The use of a mobile telephone for the sole purpose of communicating with the
33 following regarding an emergency situation:

34 (a) An emergency response operator;

35 (b) A hospital, physician's office, or health clinic;

36 (c) An ambulance operator;

37 (d) A fire department; or

38 (e) A police department.

39 (2) Any law enforcement officer, employee of a fire department, or operator of an
40 emergency vehicle as that term is defined in section 304.022, while those individuals are
41 performing their official duties;

42 (3) Use of a hands-free mobile telephone.

43 4. Any person who violates the provisions of this section shall be guilty of a class
44 C misdemeanor, unless an accident is involved, in which case the person shall be guilty of
45 a class B misdemeanor.

Section B. The provisions of section A of this act shall become effective July 1, 2004.